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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,949	09/16/2003	Roswell J. Ruka	2003P07614US	3856
7590	03/10/2009		EXAMINER	
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			WALKER, KEITH D	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROSWELL J. RUKA,
GEORGE R. FOLSER,
and SRIKANTH GOPALAN

Application 2009-1585
Application 10/663,949
Technology Center 1700

Mailed: March 10, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on October 15, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 5-15 and 18. The rejected claims that have not been appealed and/or argued for appeal are claims 1-4 and 16-17.

The outstanding pending claims (5-15 and 18) on appeal are all dependent claims which depend upon the rejected claims that have not been appealed (claims 1-4 and 16-17). Correction is required.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to notify Appellant to file an amendment canceling claims 1-4 and 16-17, and to have the remaining claims on appeal (5-15 and 18) rewritten in independent form.

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2) upon entry of amendment, to return the application to the Board
for the consideration of appealed claims;

If there are any questions pertaining to this Order, please contact the Board
of Patent Appeals and Interferences at 571-272-9797

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830